



Connecticut Criminal Defense Lawyers Association
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Senator Gary Winfield, Co-Chair
Representative Steven Stafstrom, Co-Chair
Judiciary Committee
Capitol Building,
Hartford, CT 06106

**TESTIMONY IN SUPPORT OF HOUSE BILL 5019
AN ACT CONCERNING FAIR FUTURES FOLLOWING ERASURE OF
CRIMINAL RECORDS**

Dear Members of the Judiciary Committee:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of approximately 350 attorneys, both private and public, who are dedicated to defending people accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States Constitutions are applied fairly and equally, and that those rights are not diminished.

The CCDLA supports raised bill H.B. 5019 AN ACT CONCERNING FAIR FUTURES FOLLOWING ERASURES OF CRIMINAL RECORDS. Fundamentally, the bill is a welcome step towards minimizing the impact of minor criminal convictions on the lives of misdemeanants and persons in possession of small amounts of marijuana or controlled substances. Even a minor offense or drug conviction can place significant limitations on a person's ability to gain employment, educational opportunities, or many other opportunities that facilitate meaningful participation in society. Automatic erasure of low level convictions is a just and pragmatic measure that will increase the rehabilitation and well being of low level offenders.

The one reservation CCDLA has about this bill is that it limits relief to those convicted of Class C and D misdemeanors and convictions for small amounts of marijuana or controlled substances. There are numerous other offenses for which erasure should also be considered. This is so for two reasons. First, the Supreme Court has observed "the reality that criminal justice today is for the most part a system of pleas, not a system of trials." *Laffer v. Cooper*, 566 U.S. 156, 170 (2012). Many cases of questionable merit are resolved by way of misdemeanor pleas for Class A and B misdemeanors such as Breach of Peace in the Second Degree in

violation of C.G.S. §53a-181 or Interfering With An Officer in violation of C.G.S. § 53a-167a. People frequently resolve their cases on pleas of this nature because they lack the resources to fully litigate their cases or on account of other structural challenges within the system. Yet, those people rarely present the type of public safety concerns those with more serious convictions do. Moreover, prosecutors would retain discretion to insist on more serious charges where the conduct warrants a long standing public record of the offense. Misdemeanors are frequently used as “catch-alls” to avoid litigating ambiguous cases; where people have no subsequent contact with the criminal justice system following such an episode, erasure is warranted.

Second, the drug laws of this state are written broadly. A person can easily violate C.G.S. §§ 21a-277, 21a-278, or 21a-279 based upon the same or similar conduct. The conviction he receives is based largely upon prosecutorial discretion, which is not applied uniformly throughout the state, and whether he insists upon a trial. Yet a person convicted of a 21a-277 or 21a-278 offense may be, in the case of low level and drug dependent offenders, as deserving of erasure as a person with only a 21a-279 conviction. The committee may wish to further address this issue in order to bring parity among offenders and jurisdictions.

The CCDLA supports raised bill H.B. 5019. It thanks the committee for the opportunity to comment in further detail and suggests that it may wish to broaden the scope of erasure relief in order to account for certain enumerated realities in our criminal justice system.

Respectfully submitted,
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Member at large, CCDLA